

Applicant challenged the rejection as being improper for failing to identify any suggestion to combine the references. Applicant argued that in Krichen the only desire that is indicated is one for an information format which can easily be interpreted and manipulated to allow for interpretation of data received as a "data dump" from an implanted medical device. Thus, the desire and any "suggestion" provided by Krichen is expressly restricted to a situation where an implantable medical device "dumps" its information to a programmer (col. 1, lines 46-53). But, the device of Halperin is not compatible with this type of data transfer.

The examiner contends that Applicant's characterization of Krichen is in error because what Applicant relies upon is actually a description of the deficiency of the prior art. The passage identified by Applicant describes that in the prior art a data dump from an IMD to the programmer is made in a format which is not easily transferred via the Internet. (Col. 1, lines 46-59). Krichen provides a converter for information received from an IMD in an initial format, "such as a memory dump format." (Col. 2, lines 52-56). Thus, Krichen operates on the basis of a data dump from the IMD just as programmers previously operated. The data dump aspect of Krichen is therefore a carry-over from what had been done before. But, whereas the data was sent on by the programmer in the same format, Krichen converts the data to an XML format. Krichen further describes its operations on information that is a data dump from an IMD in column 12, line 29 to column 13, line 15. Accordingly, there has been no misunderstanding by Applicant of the teachings of Krichen.

Thus, as discussed previously, the reach of the teachings of Krichen in regard to what is termed in the first Advisory Action as "a connection which facilitates transfer of info between programmer and computer" does not extend to information resident on a

programm r that is not a "data dump" of Implantable medical device information. The second Advisory Action, just as the first Advisory Action, fails to grasp the limited focus of Krichen and generalizes what Krichen contemplates in terms of communicating data from an implantable medical device to a remote location. The contention is made in the second Advisory Action that Krichen's data transfer is compatible with Halperin. But, in view of the clear misunderstanding by the examiner of Krichen, that conclusion is suspect.

In applying the erroneous and overly broad characterization of the teachings of Krichen, the rejection fails to satisfy the required showing that there be a suggestion or motivation to combine the references. Further, even combining the references fails to result in the claimed subject matter.

Applicant again submits that pending claims 8-22 are patentable over the cited references, either singly or in combination. Furthermore, applicant requests that the rejection be withdrawn and a notice of allowance be issued.

Respectfully submitted,

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By:

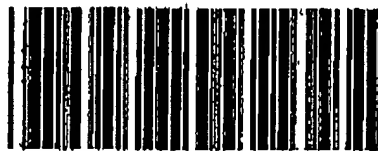
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